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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,317	01/22/2001	Alan Finkelstein	3431P009X	3512

8791 7590 07/17/2003

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EXAMINER

KIM, AHSHIK

ART UNIT PAPER NUMBER

2876

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/767,317

Applicant(s)

FINKELSTEIN, ALAN

Examiner

Ahshik Kim

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05/27/03 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in  
5 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is  
eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)  
has been timely paid, the finality of the previous Office action has been withdrawn pursuant to  
37 CFR 1.114. Applicant's submission filed on May 27, 2003 has been entered.

***Preliminary Amendment***

2. Receipt is acknowledged of the preliminary amendment filed on May 27, 2003. In the  
amendment, claims 1-3 were canceled, and claims 4-12 were newly added. Accordingly, claims  
4-12 remain for examination.

***Obviousness-Type Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in  
public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise  
extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple  
assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759  
20 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA  
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163  
USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome  
an actual or provisional rejection based on a nonstatutory double patenting ground provided the  
25 conflicting application or patent is shown to be commonly owned with this application. See 37  
CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.  
A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 2876

3. Claims 4-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent 5,608,203 to Finkelstein et al. (hereinafter '203 patent).

Although the conflicting claims are not identical, it is the Examiner's view that they are not patentably distinct from each other. Both the instant application and '203 claim a wallet card or transaction card in a conventional credit card sized frame and a magnifying lens disposed within the substrate. In claim 1 of '203 patent, it is recited that the lens or transparent area has fresnel contour, which is also recited in claim 7-8 of the instant application. In view of the above, the cards disclosed in both instant application and '203 patent are almost identical cards.

4. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalton et al. (US 6,070,990) in view of Bravenec et al. (US 6,073,854).

Dalton teaches a rigid planer card 10 comprising light emitting diode (LED) 36(See abstract; col. 1, lines 53+) and a pressure-sensitive switch component (col. 2, line 56 – col. 3, line 9).

Dalton fails to specifically teach or fairly suggest that the card is comprised of a lens disposed on the card.

Bravence teaches a conventional card such as credit card or ATM card (col. 1, lines 25+) including lens element 16, which provides variety of visual effects as well as providing multiple images to the users (col. 1, lines 16+; col. 2, lines 56+).

In view of Bravenec's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to further incorporate well-known lens element to the

Art Unit: 2876

teachings of Dalton in order to provide helpful information to users and manufactures. As LED provides enhancement so that the users may use the card in poorly-lit environment (i.e., nighttime, in the theater, etc.), adding lens-element to improve visual effects of the card would have an obvious extension taught by Bravence to improve overall functionality of the card.

- 5 Moreover, the lenticular lens can be replaced with magnifying lens type for the visually handicapped users, further improving the functionality of the card. Such various modifications would have been an obvious expedient, well known to one ordinary skill in the art.

### ***Response to Remarks***

- 10 5. Applicant recognizes that light source (i.e., LED) and switch are now recited in dependent claim 9. However, subject matter pertaining to LED and switch were not disclosed in the parent application U.S. Serial No 09/066,799, now U. S. Patent 6,176,430. Accordingly, whether the subject matter is recited in independent claim or in dependent claim would be irrelevant. Subject matter claimed in CIP (continuation-in-part) application must have been
- 15 disclosed in the parent application.

### ***Conclusion***

- I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Finkelstein et al. (US 6,176,430) disclose a wallet card with magnifying lens.
- 20 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (703)305-5203. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.
- 25 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax number directly to the

Art Unit: 2876

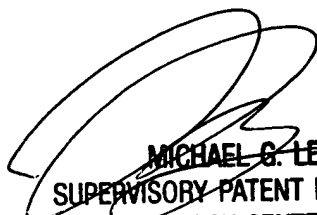
Examiner is (703) 746-4782. The fax phone number for this Group is (703)308-7722, (703)308-7724, or (703)308-7382.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Ahshik Kim  
Patent Examiner  
Art Unit 2876  
July 11, 2003



**MICHAEL G. LEE**  
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